



The 51st Legislature – Second Regular Session, opened on Jan. 6, 2014.

The Arizona State Retirement System has received legislative sponsorship for several initiatives that will have an impact to our members and/or employer partners.

Below is a summary of ASRS-related legislation. Complete versions on bills can be found on the [Arizona State Legislature](#) website.

Updates to this summary will be made throughout the session. Interested parties may also track the progress of legislation via the [ASRS Bill Tracker](#).

House Bills

HB 2050 – Social Security Section 218 Requirements

This bill would eliminate the requirement that members must be covered by an employer's Social Security 218 Agreement.

While the vast majority of ASRS members also participate in and contribute to the federal Social Security program, there are some individuals who are contributing to the ASRS and are potentially miss-enrolled. This bill would eliminate the requirement that a member must be covered under a 218 Agreement. This bill would not allow those already contributing to Social Security to opt out.

Background:

Currently there are three requirements that an individual must meet to be eligible for membership in the ASRS. An employee must be:

- 1) Employed with an ASRS employer
- 2) Engaged to work a minimum of 20 hours per week and 20 weeks in a fiscal year, and
- 3) Covered by the employer's Social Security Administration Section 218 Agreement.

The Section 218 Agreement is an agreement between the Social Security Administration and an Arizona employer to withhold Social Security contributions from eligible employees' pay and remit those monies to the U.S. Treasury. However, there are some positions, typically police and fire positions, that are exempt from an employer's Section 218 Agreement. Typically these positions are not covered under a 218 agreement and would fall under the Public Safety Personnel Retirement System (PSPRS) plan. However, certain police and fire positions are deemed not eligible by PSPRS because the position does not consist of "hazardous duty" (a PSPRS requirement). Consequently these individuals are employees without a defined benefit retirement plan.

In the past, employers potentially were erroneously placing these employees into the ASRS. Two years ago, a moratorium on removing these individuals from the ASRS plan was put into effect while an alternative resolution was discussed. Last year, HB 2562 was enacted establishing a defined contribution (DC) plan for these individuals who became employed on or after September 13, 2013.

This bill (HB 2050) would remove the ASRS requirement that an employee must be covered by their employer's Section 218 Agreement in order to be eligible for ASRS membership. The result would be that all individuals who were not previously eligible for ASRS or PSPRS must begin contributing to the ASRS for retirement benefits.

This bill would also result in a sunset/closure of the § 38-955 defined contribution plan established by HB 2562 in 2013. The reasoning is that now all individuals who would have been eligible for the DC plan would now be required to contribute to the ASRS defined benefit plan and thus the DC plan would not accept any new members. Members who were placed in the DC plan between 09/13/2013 and the effective date of 2014 legislation would then be required to contribute to ASRS but still have an account in the DC plan. They could maintain their funds in the DC account or request to purchase the eligible service from the ASRS and transfer their DC plan funds to their ASRS account.

House Bill 2017 – Technical Changes

NOTE: Passage of this bill is only required if House Bill 2050 is not approved by the Legislature.

In the 2013 Legislative session, HB 2562 established a DC plan for individuals who were not covered by a Social Security Section 218 Agreement and thereby not eligible to participate in the ASRS but were also not eligible for PSPRS because they do not perform hazardous duty. Employees employed in one of these positions on or after September 13, 2013 were placed in the DC plan. However, the ASRS must add some statutory language that would place time restrictions, within 30 days of the employee's employment, on when decisions would need to be made regarding one's contributions to the DC plan or some other compensation agreement and offered by the employer. This bill would:

1. Clarify that eligibility for the § 38-955 Defined Contribution Retirement Plan is conditioned upon not being covered by the employer's Section 218 Agreement because the employee is exempt by a mandatory retirement plan exclusion.
2. Require the alternative agreement to be entered into within 30 days of employment and before an appeal of ASRS's determination of eligibility.
3. Require the employer to determine whether to cover retirees from another statewide retirement system or plan within 30 days of employment.

Senate Bills

Long Term Disability

Two separate Senate bills would make changes to the ASRS Long Term Disability Income Plan. These changes would reduce ASRS liabilities while maintaining a top-tier LTD program for active members.

Senate Bill 1084 – Long Term Disability (LTD) Compensation Definition

Currently, LTD statutes have conflicting definitions of compensation: 1) take an average of the member's last 12 months of earnings, or 2) the member's salary immediately before becoming disabled. Since these amounts can be very different, the ASRS seeks to clarify the statute and ensure it conforms to current practice.

This bill would correct a statutory conflict between the definition of compensation and its usage within the statutes. The proposal will conform the definition to the ASRS's current practice, which takes the six pay periods before the date of disability, drops the high and low, and uses the median to determine compensation amount. If there are fewer than six pay periods, the ASRS will find the median.

Senate Bill 1085 – LTD Plan Design

The ASRS is asking the legislature to consider what an acceptable income replacement ratio is for a member who becomes disabled. Currently, the ASRS program pays up to 66⅔ percent of the member's salary for disability. However, the LTD benefit can be offset by a percentage of Social Security Disability benefits, workers compensation, wages, etc. Additionally, an individual who is receiving an LTD benefit from the ASRS is only taxed on half of that benefit, thereby increasing their ratio of replacement income when those monies are compared to an individual who works and pays taxes on their entire income.

This legislative initiative would offer that, after two years of receiving LTD benefits, the member's rate of disability income would reduce to 60 percent of their employment income rather than continue at 66⅔ percent. In doing so, the replacement income ratio would drop from between 88 and 92 percent to between 79 and 83 percent.

This bill would modify the LTD Program Plan Design for new disabilities to reduce the income replacement ratio to 60 percent for a person who is considered disabled to perform any job for which the member is reasonably qualified (the "any occupation" period), which occurs after the member has been disabled for 30 months. Note: members who are in their first 30 months of disability will continue to receive 66⅔ percent of pre-disability income,

Senate Bill 1082 – Employee Background Checks

Currently, the ASRS does not have direct authority to perform employee background checks or credit checks for current or prospective employees. Taking into consideration that the ASRS handles more than \$32.6 billion in assets and has the personal identifiable information of more than 550,000 ASRS members and their beneficiaries, the ASRS is asking for the authority to perform these checks without the requirement to first go through the Department of Administration.

This bill would permit the ASRS to conduct criminal background checks on employees and permit the ASRS to conduct credit checks for accounting, investment, and other finance-related positions.

Senate Bill 1083 – Technical Changes

Every couple of years, the ASRS must go through the process of maintaining its tax qualified status and, more recently, it was requested that language be included in state statutes codifying a current practice. The language in this statute refers to IRS Sec. 415 limitation on the amount one can receive in a defined benefit pension plan and provides statutory guidance on what variables the ASRS uses to identify the 415 limits for each member. These limitations are not static because of requirements to use an individual's to use age, years of service, purchased service, etc. to determine individual 415 limits. The added language simply codifies current ASRS practice and ensures that the ASRS plan document (statutes) complies with IRS requirements.

This bill would adjust last year's IRS-required § 415 rewrite with another required change.